

Collected Comments and Responses

After circulating the original Cecil R – Jackson EA, the BLM received 55 letters containing 48 distinct comments. Some letters were written solely to ask for more information on the project, or to request future mailings. These letters are not considered comments on the NEPA process. Other letters expressed opinions in support of or in opposition to the proposed project, or expressed opinions on certain specific project related matters. The BLM is gratified that so many people take an active interest in the management of public lands, and takes note of these opinions. Writers should be aware that NEPA requires that the BLM take public input on the NEPA analysis for this project, but that NEPA is not a voting or referendum process. The comments and the BLM's response to those comments appears here.

Comment 1: Maps in the EA are not specific enough. Various writers have asked for maps showing topography, the CR Briggs claim block, the existing mine, the proposed 200 ft drilling barrier around the Townsends big eared bat habitat, all proposed drill roads and drill holes, the general areas proposed for drilling, archaeological sites, sensitive plant locations, location of the Timbisha Shoshone homeland and Timbisha Shoshone cultural preservation area.

Response 1: Included in the revised EA are maps showing much of what is requested above, or references to documents containing the requested information. These maps do not show the following features for the reasons given: (1) The 200 ft barrier around the bat habitat is not shown as this feature is too small to depict. (2) All proposed drill roads are not shown because this EA analyzed the impacts of road building and drilling on an unspecified 100 acres within a 3000 acre area. Specific road locations are, by definition, not shown. (3) Archaeological and cultural resource locations are not shown as a matter of law. Public disclosure of cultural resource locations could encourage visitation and vandalism at these sites. (4) Sensitive plant locations are not shown because site specific studies did not find any sensitive plants in the project area. (5) The Timbisha Shoshone homeland and cultural preservation area maps can be found in the Final Legislative Environmental Impact Statement, Timbisha Shoshone Homeland (National Park Service 2001).

Comment 2: Define a maximum road width and include that width as a project condition.

Response 2: Road width is expected to vary widely over the exploration area. In lower, flatter areas, the road width may be no wider than the tire tracks on the vehicles, or about 10 to 12 ft. In steep slope areas the road could be considerably wider as it will include cut slopes, the road itself, and fill slopes. The road surface itself may need to be wider in these areas to provide for safe travel. For these reasons, it is not practical to specify a road width.

Comment 3: Request to add a permit condition to require the proponent to use disturbed areas as much as possible.

Response 3: The BLM will include such a condition in the permit.

Comment 4: How will the BLM determine when the 100 acre limit is reached.

Response 4: The BLM will require the proponent to supply periodic reports on progress under the Plan of Operations. In addition, BLM personnel will conduct periodic inspections of the site. The site visits could include requests for disturbance documentation if the inspector feels that the total new disturbance is approaching the 100 acre limit.

Comment 5: The EA did not (1) contain a full range of alternatives and should have considered the following alternatives: (a) Lateral drilling from the Panamint Valley, (b) Phasing the exploration, (c) Leaving some roads open for off road vehicle recreation, and (d) helicopter drilling for the entire program. The EA did not (2) explain how some alternatives were considered and rejected.

Response 5: (1) With respect to other alternatives offered, (a) The BLM is not familiar with any drilling technology that would allow a drill rig to sit on the Panamint Valley floor and drill upward to targets on the range above the rig. (b) The exploration is phased. All phases are considered in the EA. Multiple, stand alone phases, are exactly what the BLM is trying to avoid by completing this EA. Such phasing would result in multiple analyses, significantly increasing agency work loads, and would be subject to complaints about piecemealing of the exploration project. (c) Leaving new roads open and unreclaimed would be inconsistent with the BLM's mining land use on class L lands in the CDPA. If those roads were left open for off road vehicle recreation, that would be a separate project requiring its own analysis under NEPA. Such analysis is outside the scope of this EA. (d) The EA has been revised to include a helicopter supported drilling alternative. (2) Please see EA section 2.4 Alternatives Considered but Not Analyzed in Detail.

Comment 6: The EA is deficient in its cumulative effects analysis because: (1) It cannot incorporate the Briggs Mine EIS cumulative effects analysis as this analysis as the Briggs Mine EIS analysis was site specific and applicable only to the Briggs Mine. (2) The bighorn sheep study cannot be extrapolated beyond the Briggs Mine and cannot be used to prove no impacts to bighorn sheep. (3) Loss of habitat for the Townsends big eared bat would be significant. (4) The EA did not take into account the impacts of mine development that could result from the exploration. (5) The cumulative effects analysis did not consider ground water impacts. (6) The cumulative effects analysis did discuss the history of reclamation in the area. (7) The cumulative effects analysis did not consider the effects of road closure as a cumulative effect on the off road recreation community.

Response 6: (1) NEPA and BLM guidelines encourage the use of tiering and incorporation by reference in NEPA documents. These practices are useful tools to minimize scarce staff resources when preparing NEPA documents and minimize the need to constantly repeat work that has already been accomplished. However, neither of these administrative goals supercedes the need for appropriate analysis. By incorporating the cumulative effects section of the Briggs EIS, the EA incorporates analysis of 9 potential industrial and other activities in nearby areas of San Bernardino and Inyo counties, 12 Panamint Range mineral exploration projects, and one hypothetical mine. This is not a Briggs Mine site specific analysis.

(2) The BLM disagrees with the assertion that the bighorn sheep study results cannot be applied to the Cecil R – Jackson exploration project. The Briggs Mine and the Cecil R – Jackson

exploration project are but a few miles apart, they are in the same mountain range, they are in the same vegetation types on that mountain range, they are on similar slopes and are on the same aspect of that mountain range, they are located in areas offering no water, and are located in areas offering forage but no vegetative shelter.

(3) Whether or not the loss of another habitat for Townsend's big eared bat would constitute a significant impact is not determined in the EA. Rather, the EA incorporates mitigation measures that would prevent the loss of that habitat, thus, the impact of bat habitat loss, cumulative or otherwise, is not significant.

(4) Because the BLM acknowledges that there is a possibility of new mine development as a result of this exploration, the BLM has incorporated the cumulative effects section of the original Briggs Mine EIS into the EA for disclosure purposes. The BLM does not, however, consider this analysis definitive for any new mine proposal that might arise out of the exploration program. Any mine proposal that might arise would be subject to separate NEPA analysis.

(5) Cumulative effects on ground water are unlikely to occur as the exploration will be conducted in the upland areas east of the Panamint Valley, in bedrock conditions. Drilling at the Briggs Project, in similar hydrologic conditions, did not encounter water in the upland areas.

(6) A discussion of reclamation success in the area, specifically with respect to the Briggs Mine, would be premature at best. Reclamation, especially as it involves revegetation, is a very slow process in the desert. While the Briggs Mine is in compliance with their approved Plan of Operations for reclamation, none of that reclamation is of an age that would lend itself to conclusions regarding revegetation success.

(7) Road closures were not considered in the cumulative effects section because the BLM has no plans to close any existing access roads as a result of this project. See also response no. 20.

Comment 7: A section 1603 stream bed alteration agreement would be required for this project.

Response 7: Thank you for informing the BLM of the requirements for a stream bed alteration agreement for this project.

Comment 8: The EA should include wildlife performance standards as conditions of approval.

Response 8: The BLM will include the buffer around the Townsend's big eared bat habitat as a condition of approval.

Comment 9: While the project does not require a permit from the Great Basin Unified Air Pollution Control District, it is subject to inspection and air district rules for opacity, fugitive dust, and nuisance.

Response 9: Thank you for informing the BLM of the air district's enforcement standards for this project.

Comment 10: The EA represents a piecemeal approach to a larger mine development that requires an EIS.

Response 10: Piecemealing, when used in a NEPA context, refers to the practice of dividing a project into small pieces that are individually insignificant and using an EA to approve those pieces, thereby avoiding preparing an EIS which would otherwise be required. While the BLM acknowledges that a mine development is a possibility; for the reasons stated below, the BLM cannot know enough about possible future development to prepare an EIS for such development at this time. Should a mine project proposal be advanced in the future, the BLM would make an EIS determination at that time. This analysis does not include a full blown mine development analysis for the following reasons: (1) there are long odds against a new mine discovery, (2) the unknown and unknowable nature of any mine proposal that might arise out of the exploration, and (3) NEPA does not require that the BLM speculate about future events.

(1) Every company that engages in an exploration project does so in the hope that the project might reveal a mineable deposit. Yet the odds against a new mine being proposed as a result of any one exploration project are large. There are hundreds of thousands of mineral claims on public lands. Each of these claims has at least the theoretical potential to mature into a mine proposal. Experience shows that on these hundreds of thousands of claims, a few hundred, to a few thousand exploration projects are proposed every year. Out of these exploration projects, only a few new mines are proposed each year. Anecdotal rules of thumb in the mineral exploration field say that out of 100 advanced exploration projects, no more than one mine is found. Thus, the mere fact that a mining company is willing to expend monies on an exploration program does not mean that a mine will be developed. A careful reading of the mining company documents discussing the future Panamint range developments reveals language that makes it clear that there is no assurance of finding a mine as a result of these or other exploration efforts.

(2) Even supposing for the sake of argument that the BLM were to proceed with analyzing a mine project, such analysis would need to be very specific in order to be useful to the public and decision makers. There is no way to predict even the most fundamental properties of a mine that might result from this project, (i.e. whether it would be a surface mine or an underground mine) much less the myriad details needed for environmental analysis. In the face of this uncertainty, any attempted analysis would be meaningless.

(3) With all of the uncertainties surrounding possible future mine development, any analysis of such possible development, beyond the cumulative effects discussion in the EA and the discussion incorporated by reference from the EIS, would be purely speculative. NEPA does not require that speculative events be analyzed.

Comment 11: The EA needs to consider visual impacts.

Response 11: Please see EA sections 4.10 and 4.15.10.

Comment 12: The EA needs to consider the effects of night lighting.

Response 12: Please see sections 3.14 and 4.14 of the revised EA.

Comment 13: The EA should consider the following issues regarding impacts or control of non-native vegetation species that could easily invade disturbed areas: (1) pressure washing drilling equipment before bringing it into the Panamint Valley, (2) a 10 year reclamation monitoring and eradication plan for non-native vegetation, and (3) the possibility that reclamation is not implemented because development is proposed for the area, but that the development is not implemented for some years into the future, allowing invasion by non native plants on the unreclaimed area.

Response 13: (1) The BLM will include in the permit a stipulation to require pressure washing of all drilling equipment used on the drilling project before it enters the Panamint Valley. (2) The BLM will monitor the reclamation for 10 years following reclamation, and consistent with Ridgecrest Field Office practice and policy, will require removal of non-native species. (3) The BLM has the authority to compel reclamation or maintenance of the area in the event that reclamation is unreasonably delayed, and will use that authority if necessary. Failing that, the BLM could default the reclamation bond and use those monies to complete the reclamation.

Comment 14: The EA should contain a detailed description of each plant community.

Response 14: The EA summarizes information found in resource documents referenced from the EA. For a more complete description of the vegetation resources, please see Vegetation Resources – Briggs Exploration Study Area, in EA Appendix ___, Vegetation information, and Vegetation Mapping, Limited Sensitive Species Surveys, and Predictive Analyses for Sensitive Species Potential, Briggs Programmatic Study Area, Cedar Creek Associates, Mark Bagley, and Consortium for International Earth Science Information Network, 1988, these studies are among the references cited in the EA and are available at the BLM Ridgecrest Field office.

Comment 15: The EA should contain a discussion of the effects of temporary fragmentation on the vegetation communities. (Bossard et al 2000)

Response 15: The vegetation communities are relatively large in areal extent, the disturbances are expected to be only 20 to 30 ft wide at most, and the disturbance will be temporary. All of these factors point to minimal effect from road construction.

Comment 16: The EA should contain a list of sensitive plants that could occur in the area.

Response 16: Please see response 14.

Comment 17: The EA is not specific enough on reclamation requirements, especially as it concerns (1) use of native or non-native species for revegetation, and (2) specific numeric revegetation success criteria.

Response 17: (1) The BLM seed mix will include only native species as stated in section 4.3.1 of the EA. (2) The BLM requires specific numeric revegetation success criteria for large area disturbances such as mine activities, but does not consider such measures necessary for smaller area activities such as road building.

Comment 18: The goal of post project activities should be restoration, not reclamation.

Response 18: Thank you for your comment.

Comment 19: When can the public participate in reclamation planning for this project?

Response 19: The public comment period on the EA is the appropriate time for all public input on project reclamation plans. That period was from June 10, 2002 until August 10, 2002.

Comment 20: The EA is not specific on which roads are to be reclaimed and which roads are to be left in place.

Response 20: All lands newly disturbed by this project would be reclaimed unless the area is proposed for future mining. If existing roads are used in the Project, the BLM would convene a working group of interested public to determine which of the old roads would be reclaimed. Old roads to be reclaimed would include spur roads and drill pads, no access roads or trunk roads would be reclaimed or closed.

Comment 21: The EA is not specific on the size, depth, and location of each drill hole.

Response 21: The EA in section 2.1 describes drill hole sizes as 4 to 8 inches in diameter. All proposed drill hole locations and depths are not shown because this EA analyzes the impacts of exploration drilling on an unspecified 100 acres of disturbance within a 3000 acre area. Expected locations are shown on Figure 3 and Figure 4, included in the revised EA. Other locations are, by definition of the future phases, not known at this time.

Comment 22: The EA should reveal specific significance criteria for judging resource impacts.

Response 22: The EA has disclosed the impacts to each resource. The finding of no significant impact documents that the resource manager does not find any of these impacts to be significant.

Comment 23: The EA has not adequately disclosed bonding matters such as: (1) there are legal problems with the existing Briggs Mine bond, (2) the EA did not disclose the proposed bond amount, (3) the EA did not disclose the proposed bond type, and (4) the EA did not disclose the means of determining the bond amount.

Response 23: (1) BLM is aware of no legal problems with the Briggs Mine bond. CR Briggs has posted a surety bond, underwritten by a bonding company licensed to do business in the State of California, to assure reclamation of the Briggs Mine. This bond is held by Inyo County under a written agreement between the BLM and the County. (2) Proposed bond amount for the 100 acres of proposed disturbance for the Cecil R – Jackson exploration project is \$202,465.00, over \$2000 per acre. (3) The bond will be an irrevocable letter of credit, surety bond, or cash, and will be held by Inyo County under a cooperative agreement between the County and the BLM. (4) The bond amount was initially determined by Inyo County as part of their approval

process. BLM has reviewed the bond and concurs that the bond amount is adequate to assure reclamation of the site and is acceptable to the BLM.

Comment 24: When and how was scoping for this EA done?

Response 24: The BLM determined the scope in an in-house scoping exercise prior to preparing the EA, as allowed by NEPA.

Comment 25: Has a biological assessment been done for this project?

Response 25: No biological assessment is required as there are no known federally listed threatened or endangered species that would be affected by the project.

Comment 26: The EA indicates that some existing roads would be closed if used as part of this project. Such mitigation is not appropriate and should be removed from the EA.

Response 26: As a point of clarification, the BLM is not proposing to close any access roads or trunk roads. Please see response 20.

Comment 27: The 30 day comment period is not sufficient and should be extended.

Response 27: The BLM extended the comment period for an additional 17 days.

Comment 28: The social and economic analysis is inadequate.

Response 28: The BLM has reviewed the proposed project and the social and economic impact discussion and find that the EA adequately describes the expected impacts of the drilling project.

Comment 29: The EA did not adequately address environmental justice and other issues with respect to the Timbisha Shoshone tribe.

Response 29: The BLM, and a third party cultural consultant, worked extensively with the Timbisha Shoshone tribe in preparation for this EA. The EA, and the work by the consultant (Native American Consultation for the Cecil R. Jackson Gold Exploration Project, Michael Baksh, 2002) address this issue to the extent practicable.

Comment 30: The EA did not provide enough discussion on mitigation, particularly: (1) not enough detail on mitigation plans, (2) the mitigation proposed has not been demonstrated to be effective, (3) no mitigation is proposed for the road closure in Surprise Canyon, (4) the EA did not discuss topsoil salvage as a mitigation measure, and (5) the EA did not discuss restoring existing roads to current condition if those roads are used for exploration activities.

Response 30: (1) Mitigation proposed by the proponent is described in chapter 2 of the EA and mitigation proposed by the BLM or required by regulation is described in chapter 4 of the EA. (2) Please see response 6(6). (3) The Proposed Project has no connection to Surprise Canyon, or to the recent BLM actions in Surprise Canyon, thus it would be inappropriate to require the

Project Proponent to provide mitigation in the form of reconstructing the Surprise Canyon access. (4) Topsoil salvage has been included as a mitigation measure in the decision record. (5) Existing access roads and trunk roads that are used in the exploration project would be left in a condition equivalent to their condition prior to exploration. Small branch roads and drill pads would be reclaimed. Please see response 20.

Comment 31: What is the goal of reclamation?

Response 31: The goal of reclamation is to assure that the project does not cause unnecessary or undue degradation of the environment or result in undue impairment of the public lands.

Comment 32: The air quality discussion in the EA failed to address: (1) why the area around the mine is not in attainment for air quality, (2) the air quality impact of the Briggs Mine based on BLM monitoring of the mine, (3) prevention of significant deterioration (PSD) analysis, and (4) why air quality restrictions are not placed on the mine and on this project.

Response 32: (1) Fine dust (PM₁₀) is subject to two California ambient air quality standards (CAAQS); a 24 hour standard and an annual standard. The area around the mine is in attainment for the annual standard, but not the 24 hour standard. The non attainment is caused by large dust storms across the area that cause very high dust concentrations over short intervals (a few hours). (2) The BLM does not monitor air quality around the mine; that responsibility falls to the Great Basin Unified Air Pollution Control District (Great Basin). Records show that when dust storms pass over the Briggs Mine, the dust levels inside the storm increase. Great Basin considers these increases in PM₁₀ concentrations to be a violation of CAAQS. (3) PSD analysis is a federal clean air act tool used when permitting certain sources of air pollution that are in, or upwind of, certain air basins. The exploration drilling is not an action requiring an air permit, thus, the PSD tool is not used. (4) Air quality restrictions have been placed on the mine and are incorporated into the permits issued to the mine by Great Basin. Moreover, Great Basin will monitor the exploration project for air quality issues relating to opacity, fugitive dust, and nuisance.

Comment 33: The EA needs an expanded discussion of ground water impacts and resolution of conflicting statements saying that the depth to ground water is unknown and that the drill holes are not expected to encounter ground water.

Response 33: For a better understanding of the expected ground water regime refer to the Briggs Mine EIS. Based on the ground water conceptual model in that document, and the fact that exploration drilling for the Briggs Mine did not encounter ground water in the upland bedrock areas, there is no reason to believe that the proposed drilling project will encounter ground water. Nevertheless, it is always possible that ground water could be encountered in a fracture-controlled system, therefore the EA discusses drill hole plugging requirements.

Comment 34: The EA needs an expanded discussion of surface water impacts, particularly as concerns storm water permit conditions.

Response 34: There are no known streams, lakes, wetlands, or other surface waters in the project area. Surface water, when it occurs, would occur as overland sheet flow and concentrated runoff

in drainage channels. Storm water permit conditions would be issued by the Lahontan Regional Water Quality Control Board (Lahontan). The BLM believes they would be similar to conditions attached to other permits issued by Lahontan to the Briggs Mine. These conditions would include: sloping roads outward to shed runoff quickly, placing water bars on roads to prevent accumulations of runoff on the road surface, and installing temporary stormwater detention basins in select areas. The BLM will require that all roads comply with the BLM standards for road construction and sediment control.

Comment 35: The BLM should require Canyon to publish the bighorn sheep study.

Response 35: The bighorn sheep study was conducted by a graduate student at the University of Alaska, Fairbanks under the supervision of the BLM, National Park Service and California Department of Fish and Game. Canyon Resources participated in funding the study, but is not responsible for the study design, its execution, or its completion.

Comment 36: The EA should include mitigation for noise from night time operations.

Response 36: The BLM will include a condition in the CR Briggs permit that prohibits night time operations.

Comment 37: The EA failed to consider the impacts of air pollution on nearby wilderness areas.

Response 37: The air emissions from the project will be minimal and are not expected to affect the wilderness areas.

Comment 38: The standard of performance for mining in the CDPA is undue impairment, not undue degradation.

Response 38: The decision record addresses the undue impairment issue.

Comment 39: The EA should have an expanded discussion of dispersed recreation and social and economic impact.

Response 39: The BLM has reviewed the discussions; they are adequate for the purposes of this analysis.

Comment 40: The EA should take into account the impact of road closures on the opportunities for recreation, especially for those covered by the Americans with Disabilities Act.

Response 40: As clarified in responses 6 and 20, there would be no road closures as a result of this project. Thus, the impact to off road access will be minimal.

Comment 41: What plans are in place to reclaim the current mining disturbance.

Response 41: The BLM has issued a mining plan of operations, including a reclamation plan, to CR Briggs Corporation for the Briggs Mine. That plan was reviewed in a joint federal/state

EIS/EIR completed in 1995. The reclamation plan documents are available for review in the BLM Ridgecrest Field Office.

Comment 42: The Timbisha Shoshone did not receive a copy of the Cultural Resource study.

Response 42: The cultural resources study is attached to the EA as an appendix.

Comment 35: The Native American Values and Cultural Resources section of the EA need to be better integrated.

Response 43: The two sections are specifically not integrated to avoid the possibility that the Native American values discussion might suffer loss of context and continuity, and possibly dilution, if integrated into the general cultural resources discussion.

Comment 44: Request for a color photograph and visual simulations of the project area including drill rigs.

Response 44: The project is not expected to result in significant visual impact for the reasons given in the EA, and photos and photo simulations are not needed. The drill rigs are portable rigs and will only be visible for the duration of drilling, thus, are not simulated.

Comment 45: Death Valley National Park should be added as a resource and impacts to this resource analyzed.

Response 45: Each resource impact discussion refers to possible impacts to Death Valley National Park, to the extent that impacts are expected to affect the park.

Comment 46: The No Project alternative can be considered as mitigation for the proposed project.

Response 46: Alternatives are the heart of the EA. They provide the differences that can be studied in the impact analysis. Mitigation measures are measures that can lessen the impact of an alternative. If the mitigation completely takes the alternative away (as would be the case in this request), the alternative becomes the no project alternative and cannot be separately studied.